

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Group III, claims 12-13, and 15 as well as claims 14, 16, 17, each in part as the claim reflects an antibody, and SEQ ID NO: 14 in the reply filed on 11/13/07 is acknowledged.

Claims 1-11 and 19-25 and all other SEQ ID NOS. are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 11/13/07.

Specification

The description portion of this application contains a computer program listing consisting of more than three hundred (300) lines. In accordance with 37 CFR 1.96(c), a computer program listing of more than three hundred lines must be submitted as a computer program listing appendix on compact disc conforming to the standards set forth in 37 CFR 1.96(c)(2) and must be appropriately referenced in the specification (see 37 CFR 1.77(b)(5)). Accordingly, applicant is required to cancel the computer program listing appearing in the specification on pages 147-163, file a computer program listing appendix on compact disc in compliance with 37 CFR 1.96(c) and insert an appropriate reference to the newly added computer program listing appendix on compact disc at the beginning of the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 12-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 12 is indefinite for depending upon a non-elected claim. Furthermore, claim 9 upon which claim 12 depends embraces non-elected protein sequences.

Claims 14, 16, and 17 are indefinite for reciting non-elected subject matter. Only part (d) of each claim (directed to antibodies) is under consideration.

Claim 16 is confusing in reciting a “therapeutically effective amount) without indicating the therapeutic effect that must be achieved.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 12-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Roecklin et al. (U.S. Patent No. 7,081,345).

SEQ ID NO: 14 of the instant application is a 193 amino acid human sequence. This protein corresponds identically to SEQ ID NO: 8 of Roecklin et al. (See at least SEQ ID NOS: 8 and 73 and Figure 1 of Roecklin et al.) Roecklin et al. disclose monoclonal and polyclonal antibodies to SEQ ID NO: 8. Pharmaceutical compositions and therapeutic applications are

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disclosed. (See at least claims, column 3, lines 10-20; column 8, lines 30-55, and columns 53-54.)

With respect to claim 17, the antibodies of Roecklin et al. would have been in a container, particularly in the context of the pharmaceutical compositions. Standard procedure would have resulted in some identifying information (i.e. label) on the container. Applicant is reminded that intended use language such as “can be used for treating psoriasis” is given no patentable weight in a product claim. *In re Heller*, 73 USPQ 403, makes clear that application of printed matter to a known article cannot render the article patentable. It does not make it a new or different composition.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marianne P. Allen whose telephone number is 571-272-0712. The examiner can normally be reached on Monday-Friday, 5:30 am - 2:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Manjunath N. Rao can be reached on 571-272-0939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Marianne P. Allen/
Primary Examiner, Art Unit 1647

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